IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 955 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UMA INDUSTRIES - Petitioner(s)

Versus

GUJARAT INDUSTRIAL DEVELOPMENTCORPORATION - Respondent(s)

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Appearance :

MR ARPIT A KAPADIA for Petitioner(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 25/01/2006

ORAL JUDGMENT

1.Rule. Shri M.B.Gandhi, learned advocate waives service of rule on behalf of the respondent.

2.With the consent of the learned advocates appearing on

behalf of the parties, the matter is taken up for final hearing today.

3. By way of this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order passed by the Divisional Manager (CG), GIDC, Ankleshwar dated 13.1.2006 for rescindment of allotment of Plot No.168/1 in GIDC, Ankleshwar.

4. It appears from the record and it is the contention on behalf of the petitioner that the GIDC was allotted Plot No.168/1 admeasuring 2443 sq. mtrs. to the petitioner on 17.8.2005 at Ankleshwar. It is also the case of the petitioner that subsequently the petitioner has paid 30% of the total price as per the policy of the Corporation and the petitioner also executed the form of agreement on 23.8.2005 and accordingly the possession advise was issued in his favour vide letter No.5287 dated 23.8.2005 directing the petitioner to take the possession and that the petitioner had taken the possession of the said plot No.168/1 situated at GIDC, Ankeleshwar from the DEE-(III), GIDC, Ankeleshwar. It appears from the record that thereafter

on the basis of the one representation of one M/s. Alfa Tools Pvt. Ltd., vide letter dated 4.1.2006, the Divisional Manager (CG), GIDC, Ankleshwar passed the impugned order dated 13.1.2006 and without giving an opportunity to the petitioner ordered to cancel the allotment of Plot No.168/1 and termination of form of agreement executed by the petitioner.

5. Shri A.A.Kapadia, learned advocate appearing on behalf of the petitioner has submitted that the impugned order has been passed and the allotment has been cancelled and the form of agreement has been terminated without giving any opportunity of hearing to the petitioner.

6. Shri M.B.Gandhi, learned advocate appearing on behalf of the respondent is not in a position to satisfy this Court whether before passing the impugned order dated 13.1.2006, whether the petitioner was given any opportunity or not. Even on going through the order dated 13.1.2006 it appears that before cancelling the allotment of Plot No.168/1 and termination of form of agreement executed by the petitioner, the petitioner has not been given any opportunity to represent its case and even the petitioner is also not called upon

earlier to show cause as to why the allotment should not be cancelled. Under the circumstances, the impugned order/communication dated 13.1.2006 is in breach of principles of natural justice and therefore, the same is required to be quashed and set aside.

7. For the reasons stated above, the petition succeeds. The impugned order/communication dated 13.1.2006 passed by the Divisional Manager (CG), GIDC, Ankleshwar is hereby quashed and set aside and the matter is remanded to the Divisional Manager (CG), GIDC, Ankleshwar to pass an appropriate order in accordance with law and on merits after giving an opportunity to the petitioner and the concerned persons. It will be open for the petitioner to request for personal hearing and the Divisional Manager (CG), GIDC, Ankleshwar is directed to consider the same and give an opportunity of personal hearing to the petitioner before passing any order.

8. Rule is made absolute to the aforesaid extent, however, there will be no order as to costs. DS permitted.

(M.R.SHAH, J.)

kdc.